United Nations A/HRC/37/NGO/167

General Assembly

Distr.: General
16 February 2018

English only

Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by the International Humanist and Ethical Union, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[6 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-02441(E)

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Caste-based discrimination in India, with a focus on the practice manual scavenging

Legislative context

Despite being proscribed by Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, there are currently at least 260 million people suffering from caste-based discrimination in the world, the vast majority living in South Asia.[1]

Caste discrimination is a pernicious and deeply ingrained form of structural discrimination, involving massive violations of civil, political, economic, social and cultural rights. Caste systems, having the doctrine of inequality at their core, divide people into unequal and hierarchical social groups. Those at the bottom, known as 'Untouchables' or Dalits in South Asia, are considered 'lesser human beings', 'impure' and 'polluting' to other caste groups. Needless to say, such discrimination is absolutely contrary to Article 1 of the Universal Declaration of Human Rights, stating that "all human beings are born free and equal in dignity and rights".

Despite constitutional safeguards[2] and special legislation for the protection of India's 201 million 'Scheduled Castes', such as The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act of 1989 and its Amendment Bill of 2015, violations of their fundamental rights are reported to continue on a large scale. Since the formation of the present government in 2014, there has been a rise in Hindu nationalism and an increase in the attacks against Dalits and religious minorities.[3] As Human Rights Watch documented in its World Report 2018, vigilante violence aimed at religious minorities, marginalized communities, and critics of the government - often carried out by groups claiming to support the ruling Bharatiya Janata Party (BJP) - became an increasing threat in India in 2017.[4]

Common untouchability practices

Caste-based discrimination takes many forms. The following examples can be regarded as common untouchability practices within a large framework of day-to-day discrimination:

- Segregation in housing, schools and cremation grounds.
- De facto prohibition of inter-caste marriage.
- Limitation or prohibition of access to public places such as roads, temples and tea houses.
- Denial or limitation of access to public services such as water taps, health care and education.
- De facto prohibition of access to ownership of land.

A further form of discrimination against Dalit people is the restrictions on occupation; with their being restricted to the most menial, dirty and dangerous jobs as defined by the caste hierarchy. One such job is manual scavenging, the nature and consequences of which this statement is keen to draw particular attention to.

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[1] http://idsn.org/caste-discrimination/

[2] Article 17 of the Constitution of India has abolished untouchability and its practice in any form, in 1950.

[3] Al Jazeera, India's Hindu Fundamentalists,
http://www.aljazeera.com/programmes/peopleandpower/2015/10/indias-hindu-fundamentalists-151008073418225.html

[4] Human Rights Watch, World Report 2018, India, p. 261-269,
https://www.hrw.org/sites/default/files/world_report_download/201801world_report_web.pdf.

Manual scavenging

Manual scavenging is the practice of manually cleaning, carrying, disposing or handling human and animal excreta from dry latrines, sewers and streets, using brooms, small tin plates and baskets carried on the head. Since Dalits are considered to be polluted by reason of their birth, the task of removing human and animal waste is allocated to them and strictly enforced. They have to work in filthy and abhorrent conditions and are furthermore socially ostracised by most of society in the form of people refraining from touching them (or items they have touched), being verbally abused and being excluded from social functions. Refusal to perform such tasks leads to physical abuse and social boycott.

As Ashif Shaikh, founder and convener of the Rashtriya Garima Abhiyan, a grassroots campaign against manual scavenging, explained: "The manual carrying of human feces is not a form of employment, but an injustice akin to slavery. It is one of the most prominent forms of discrimination against Dalits, and it is central to the violation of their human rights."[5]

The discrimination faced by the Dalits, causing them to be separated from the rest of caste society and excluded from social, religious and economic life, has been declared by the UN Committee on the Elimination of Racial Discrimination (CERD) to fall within the scope of the International Convention on the Elimination of All Forms of Racial Discrimination.[6]

Although the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act (2013) outlaws all forms of manual scavenging (beyond just dry latrines) in India, prescribing penalties for those who perpetuate the practice and protecting those who engage in it, over 180,000 households in rural India are involved in manual scavenging.[7] Various preceding laws have outlawed the practice for over the last 60 years. The government's recognition in the 2013 Act of the historically rooted and ongoing injustice faced by communities engaged in manual scavenging is important, but also points to failures in implementing previous laws and policies to address the problem. On March 27, 2014, the Indian Supreme Court held that India's Constitution requires state intervention to end manual scavenging and rehabilitate all people engaged in the practice.[8] This meant not only ending the practice but also ending the abuses faced by the communities engaged in manual scavenging. They based their decision on data, collected by the petitioners, that "makes it abundantly clear that the practice of manual scavenging continues unabated".

Recent examples highlight the failures of previous and current government attempts to end manual scavenging and eliminate the entrenched attitudes and discriminatory practices that still bind members of affected communities to this degrading and unnecessary occupation:

- In 2017, within a period of just a 100 days, 39 people have died across India while cleaning sewers. Activist Bezwada Wilson, one of the founders and national convener of Safai Karamchari Andolan, pointed out that this was "not the first incident of the kind, but just a part of regular occurrences."[9]

[5] Human Rights Watch, Report "Cleaning Human Waste: "Manual Scavenging", Caste, and Discrimination in India", 2014, https://www.hrw.org/report/2014/08/25/cleaning-human-waste/manual-scavenging-caste-and-discrimination-india.

[6] Concluding Observations of the Committee on the Elimination of Racial Discrimination: India CERD/C/304/Add.13, September 17, 1996, https://www.hrw.org/reports/1999/in%ja/India994-20.htm.

[7] According to the latest Socio Economic and Caste Census of India in 2011, http://pib.nic.in/newsite/PrintRelease.aspx?relid=133286.

[8] Supreme Court of India, Safai Karamchari Andolan And Ors vs Union of India And Ors, 27 March, 2014, https://indiankanoon.org/doc/6155772/.

[9] 39 dead in 100 days while cleaning sewers: Bezwada Wilson, https://timesofindia.indiatimes.com/city/delhi/39-dead-in-100-days-while-cleaning-sewers-wilson/articleshow/59613603.cms.

- In 2017, insanitary latrines have been constructed in a pilgrimage town for visitors to Shravanabelagola for the coming Mahamastakabhishekha event, which opens on February 17. A group of paid workers, some of them Dalits, arrived in the township on December 10 to clean the toilets. The latrines have been constructed for religious leaders and require manual cleaning. Officers making the preparations for the Mahamastakabhishekha said the structures were designed to suit the special requirement of some religious figures who are coming for the event.[10]

- Seven manual scavengers have died in the first seven days of 2018.[11] On January 1, five workers in Mumbai were fixing a sewer line which ran 10 metres below ground level. While being lifted back by a crane, the cable broke and three of them died on the spot. One worker died the next day and the only surviving worker broke his legs and underwent surgery. In another case, three manual scavengers died on January 7 in Bangalore while cleaning a choked manhole at a residential apartment.[12] Most of the cases of sewer deaths get buried or hidden under various non-serious charges. In the case of the events on January 1, the Mumbai police booked the crane operator under IPC section 304(A) for causing death by negligence and arrested him.[13] It is noteworthy that the two incidents happened in Mumbai and Bengaluru, and not in some remote rural or tribal area where sucker machines might not be available.

Conclusion and recommendations

Culture, tradition and religious doctrine should never be permitted to undermine human rights. Although India has an extensive body of legislation, outlawing caste-based discrimination and the practice of manual scavenging, meant to protect Dalits and improve their situation, political will to ensure implementation is lacking and discrimination from the village level up to the government level continues unabated. Caste-based discrimination and the human rights violations that inevitably follow can only be avoided if decision makers at all levels decide to take action.[14]

We urge the Human Rights Council to press the government of India to:

- Identify all individuals currently engaged in manual scavenging and those who have engaged in the practice since it was outlawed under the 1993 Act (so the latter are entitled to benefits under the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act (2013)).
- Identify insanitary latrines and demolish or convert them into sanitary latrines under the provisions of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act (2013).
- Reallocate resources with the purpose of technologically upgrading the means of protection of sewer workers.
- Outline administrative measures beyond conduct rules that can be imposed if officials do not implement the Act.
- Set up a time frame within which land is to be allotted as part of the rehabilitation package for former manual scavengers as provided for in the 2013 Act.
- Ensure discrimination-free, secure and alternate livelihoods by providing skill development, vocational education and livelihoods training for identified manual scavengers.
- Create a favourable environment through community awareness and sensitization of local administration.

[10] Shravanabelagola latrines run afoul of manual scavenging law, http://www.thehindu.com/news/national/shravanabelagola-latrines-run-afoul-of-manual-scavenging-law/article22537499.ece.
[11] Seven Manual Scavengers Died in Seven Days. Why Is There Still Silence?, https://thewire.in/212220/seven-manual-scavengers-died-seven-days-still-silence/.
[12] Three manual scavengers die of asphyxiation in Bengaluru, http://www.newindianexpress.com/cities/bengaluru/2018/jan/07/three-manual-scavengers-die-of-asphyxiation-in-bengaluru-1747011.html.
[13] Powai manhole mishap: 1 more worker dead, crane operator held, https://timesofindia.indiatimes.com/city/mumbai/powai-manhole-mishap-1-more-worker-dead-crane-operator-held/articleshow/62344267.cms.
[14] http://idsn.org/caste-discrimination/how-can-we-eliminate-caste-discrimination/.

- Build the capacity of the community to promote rehabilitation efforts and self-reliance and build leadership in the community with a particular focus on Dalits.
- Ensure the judiciary is more responsive to the existing legislation.